

1 **UNITED STATES DISTRICT COURT**  
2 **EASTERN DISTRICT OF NEW YORK**

3 -----X  
4 **SUSANA LOZADA,**

5 **Plaintiff,**

6 **-against-**

7 **ETOURANDTRAVEL, INC.,**

8 **Defendant.**  
9 -----X

**CASE NO.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

10 **COMPLAINT**

11 SUSANA LOZADA (“Plaintiff”), by and through her attorneys, KIMMEL &  
12 SILVERMAN, P.C., alleges the following against ETOURANDTRAVEL, INC. (“Defendant”):

13 **INTRODUCTION**

14 1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act, 47  
15 U.S.C. § 227, *et seq.* (“TCPA”).

16 **JURISDICTION AND VENUE**

17 2. Jurisdiction of this Court arises under 28 U.S.C. § 1331, which grants this court  
18 original jurisdiction of all civil actions arising under the laws of the United States. See Mims v.  
19 Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

20 3. Defendant regularly conducts business in the State of New York therefore  
21 personal jurisdiction is established.

22 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).  
23  
24  
25

**PARTIES**

5. Plaintiff is a natural persons residing in Bohemia, New York 11716.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal office located at 3626 Quadrangle Boulevard, Suite 400, Orlando, Florida 32817.

8. Defendant is a “person” as that term is defined by 47 U.S.C. § 153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

10. Plaintiff has a cellular telephone number that she has had for over a year.

11. Plaintiff has only used this number as a cellular telephone number.

12. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.

13. Beginning in or around March 2015, and continuing through April 2015, Defendant called Plaintiff on her cellular telephone on a repetitive and continuous basis.

14. Defendant’s calls came from numbers including but not limited to (407) 515-2416.

15. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system and automatic and/or pre-recorded messages.

16. Defendant’s automated messages identified its company name as the caller.

17. Defendant’s telephone calls were not made for “emergency purposes.”

18. The purpose of Defendant’s calls was to sell Plaintiff a vacation.

1           19. Plaintiff never provided prior express written consent to Defendant to call her  
2 cellular telephone number or to contact her regarding any goods or services offered by  
3 Defendant.

4           20. Plaintiff was never able to revoke any consent that may have been given because  
5 Defendant's calls were always automated and there was not another person on the end of the  
6 line with whom she could speak.

7           21. Despite the above, Defendant persisted in calling Plaintiff on her cellular  
8 telephone.

9  
10                               **DEFENDANT VIOLATED THE**  
11                               **TELEPHONE CONSUMER PROTECTION ACT**

12           22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth  
13 at length herein.

14           23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular  
15 telephone using a prerecorded voice.

16           24. Defendant initiated these automated calls to Plaintiff using an automatic  
17 telephone dialing system.

18           25. Defendant's calls to Plaintiff were not made for emergency purposes.

19           26. Defendant's calls to Plaintiff, in and after March 2015, were not made with  
20 Plaintiff's prior express consent.

21           27. Defendant's acts as described above were done with malicious, intentional,  
22 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the  
23 purpose of harassing Plaintiff.  
24  
25



RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

Dated: May 15, 2015

By: /s/ Craig Thor Kimmel

Craig Thor Kimmel

Attorney ID #2790038

Attorney for Plaintiff

1001 Avenue of the Americas, 12<sup>th</sup> Floor

New York, New York 10018

Phone: (212) 719-7543

Facsimile: (877) 617-2515

Email: kimmel@creditlaw.com